



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 46

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, SUITE 200
IRVINE CA 92614

COPY MAILED

AUG 07 2002

OFFICE OF PETITIONS

In re Application of :
Kurt W. Getreuer :
Application No. 08/485,070 :
Filed: June 7, 1995 :
Attorney Docket No. :
951028(US)USC1X11D1 MMM1 :

ON PETITION

This is a decision on the petition to revive under the unintentional provisions of 37 CFR 1.137(b), filed June 5, 2002, which, for the reasons stated below, is being treated as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is granted.

This application was held abandoned for failure to timely reply to the Office action mailed "1/04/2000." A review of the file record fails to disclose the mailing of an Office action on January 4, 2000; however, the record does indicate that an Ex parte Quayle Office action was mailed on January 7, 2000, which set a two month extendible period for filing a reply thereto. Therefore, the Notice of Abandonment mailed on March 28, 2002 is being treated as a Notice of Abandonment for failure to reply to the January 7, 2000 Office action.

As noted above, the file record discloses the mailing on January 7, 2000 of an Ex parte Quayle Office action, which set a two month extendible period for filing a reply thereto. Specifically, the Office action of January 7, 2000 required the submission of a complete set of formal drawings. On June 7, 2000, petitioner submitted a three month extension of time fee of \$870, a Supplemental Information Disclosure Statement, a "Communication" requesting withdrawal of the terminal disclaimer, an Amendment, and formal drawings. A reply to the January 7, 2000 Office action was timely filed.

In response to the June 7, 2000 request by petitioner to withdraw the terminal disclaimer, the Examiner, on April 30, 2001, mailed a letter providing information of the proper avenue of relief in requesting withdrawal of a terminal disclaimer. The letter to petitioner also indicated that "[a]pplicant is given **30 days** for this notice." Within 30 days of the notice, petitioner filed a petition under 37 CFR 1.182 requesting withdrawal of the terminal disclaimer, which petition was dismissed in a decision mailed on August 15, 2001. Thereafter, the Notice of Abandonment was mailed stating that the application was abandoned for failure to timely reply to the "1/04/2000 [sic, 1/07/2000]" Office action.

It appears that the Notice of Abandonment was mailed in error since, as noted above, a reply to the Office action of January 7, 2000 was timely filed on June 7, 2000. The file record fails to indicate that any other Office action requiring a reply was mailed after the mailing of the January 7, 2000 Ex parte Quayle Office action. Therefore, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

In view of the above, the \$1,280 fee assessed to the instant petition will be refunded to petitioner's deposit account.

Further, in view of the treatment of this petition as one to withdraw the holding of abandonment under 37 CFR 1.181, the terminal disclaimer filed with the petition under 37 CFR 1.137(b) is not required as a condition for reviving the instant application. Accordingly, the terminal disclaimer filed on June 5, 2002 will not be processed. Since the terminal disclaimer will not be processed, the \$110 fee assessed thereto is unnecessary and will likewise be credited to petitioner's deposit account.

This application is being forwarded to Technology Center AU 2653 for appropriate action on the reply received June 7, 2000, as well as the "Response" filed with the instant petition on June 5, 2002.



Frances Hicks

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy

(703) 305-8680